

**DEFENDANT'S  
EXHIBIT  
093**

Case No. 7:14-CV-00182-BR

NORTH CAROLINA

DUPLIN COUNTY

MURPHY-BROWN, LLC

785 HWY 24-50

WARSAW, NORTH CAROLINA 28398

FARM NUMBER 4691 House(s) 5,6,7

AUTOMATED VENTILATION

SWINE FINISHING AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of FEBRUARY, 2009, by and between Murphy-Brown LLC, a limited liability company with its principal office and place of business in Warsaw, Duplin County, North Carolina (hereafter referred to as "Owner"), and JOSEPH CARTER whose address is JOSEPH CARTER, 140 MILLER RD, BEULAVILLE, NORTH CAROLINA, 28518 (hereafter referred to as "Producer"), whose farm is located in, DUPLIN County, North Carolina whose farm is generally known as "JOEY CARTER SITE 2."

**PREMISES:**

WHEREAS, Owner and Producer intend to contract and/or continue contracting for Owner to supply and Producer to grow out swine in a Swine Finishing Agreement, and the parties intend to establish the terms and conditions of a production agreement for any additional group or groups of swine placed by Owner with Producer; and,

Eff. 02-02-06

WHEREAS, Producer acknowledges that this Agreement will replace any unexpired Swine Finishing Agreement as to any subsequent group of feeder pigs supplied by Owner to Producer hereafter, and both parties intend that this Agreement shall govern the rights and obligations of each respective party in connection with any additional group of swine that Owner may place with Producer hereafter.

Now, therefore, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, together with the mutual agreements herein contained, the parties do mutually contract and agree as follows:

GENERAL AGREEMENTS:

Section 1. DEFINITIONS:

Section 1.1. "ACCOUNTING CONTROL GROUP". The term "Accounting Control Group" shall mean the designated number of consecutive groups of Feeder Pigs supplied to all Producers, as specified in Exhibit "A," attached hereto, which may be modified from time to time as herein provided.

Section 1.2. "ANIMAL WELFARE POLICY". The term "Animal Welfare Policy" shall mean Owner's policy governing the treatment of animals. The current Animal Welfare Policy in effect is attached hereto and incorporated by reference herein as Exhibit "B." This policy may be modified or superceded at Owner's sole discretion.

Section 1.3. "FEEDER PIGS". The term "Feeder Pigs" shall mean any feeder pigs provided from off-site nurseries or nurseries that are located on sow farms.

Section 1.4. "GROUP". The term "Group" shall mean one house supplied by Owner to Producer at any one time and accounted for as a group in Owner's records. Each group shall consist exclusively of Feeder Pigs. The number of Feeder Pigs supplied by Owner will not exceed

the number of animals allowed as outlined in the Certified Animal Waste Management Plan (CAWMP) for Producer's farm. It is understood that, depending upon the size and location of Producer's facilities, any one Group may be delivered to Producer's facilities over a period of several days, as well as removed and marketed at maturity over a period of several days. Owner shall control the dates of delivery, dates of marketing, and size and location of a Group for the purposes of this Agreement.

Section 2. GENERAL PROVISIONS.

Section 2.1. Independent Contractors. Each party hereto acknowledges and agrees that it is an independent contractor, and is not an employee or agent of the other party or authorized, empowered, or directed to incur any liability, debt or other obligation on behalf of the other party, except as herein provided.

Section 2.2. Duration of Agreement. This Agreement shall commence with the group specified below in Section 2.2, which is noted as the first group of a **FIFTEEN**-group per house contract. For the Agreement to terminate at the end of the **FIFTEENTH** group of each house, written notice must be given by Producer or Owner before completion of the **TWELFTH** group of each house. The Agreement will automatically renew in increments of three groups after the **TWELFTH** group is completed. After completion of the **TWELFTH** group of each house, if written notice of termination of one party or the other party is submitted, regardless of how many additional groups after **TWELVE** have been grown, the Agreement will continue for three additional groups. The chart below shows when the contract would expire after notice is given at placement of or within completion of a certain group.

Notice is Given at Placement of or Within Group

Contract Expires

Eff. 02-02-06

12	15
13	16
14	17
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This Agreement shall be applicable to all groups of swine that are provided by Owner and accepted by Producer until either party shall rescind, revoke or modify this Agreement in writing. Producer cannot assign, sell or otherwise transfer this Agreement without prior written consent of the Owner. No modification shall become effective until executed by both parties hereto, except as provided in Section 3.4.4.

**THE CONTRACT IS EFFECTIVE WITH GROUPS CLOSED ON OR AFTER FEBRUARY 1, 2009.**

Section 2.3. Notice. Any required written notice from one party to the other shall be deemed given if the same is deposited, postage pre-paid, in the United States mail, addressed to the last known address of the other.

Section 3. OWNER AGREEMENT:

Section 3.1. Duration. Owner hereby agrees to provide Producer with Feeder Pigs commensurate with the design capacity of each building not to exceed the number of animals certified in Producer's Certified Animal Waste Management Plan. Owner will provide a minimum of **Fifteen (15)** Groups as hereafter set out. The Agreement will automatically renew in increments of three groups after the **twelfth** group is completed. After completion of the **twelfth** group, if written notice of termination of one party or the other party is submitted, regardless of how many additional groups after **twelve** have been grown, the Agreement will continue for three additional

groups unless written notice is given either by Owner or Producer in advance as stated in Section 2.2. Owner shall have the right, either with or without cause, to elect to provide or decline to provide any additional Group or Groups of Feeder Pigs to Producer so long as Owner provides Producer notice three groups in advance of its intent to terminate. This notice requirement does not affect Owner's right of immediate termination as described in Section 4.15 of the Swine Finishing Agreement. Owner's termination decision shall be final and binding.

Section 3.2. Group Selection. Any group of Feeder Pigs so provided by Owner to Producer shall be selected, purchased, or provided solely by Owner, and Owner shall be entitled to control the weight, grade, type, time of placement, and marketing of all animals placed in Producers care and management.

Section 3.3. Feed, Medication, Supervision and Technical Assistance. Owner shall furnish and deliver all feed, medication, disinfectant, servicemen, and veterinarian services and other products that are deemed necessary by Owner for the control, management and treatment of any diseases, or other conditions that may be encountered in the production of the pigs.

Section 3.4. Terms of Payment: Owner shall pay to Producer for each of Owner's swine that Producer has raised for marketing and that arrive for processing, as follows:

Section 3.4.1. The Group of Feeder Pigs provided by Owner to Producer shall be marketed as a group. Owner shall maintain a record of each consecutive Group of Feeder Pigs marketed from Producer and other producers, and Producer's Group shall be considered to have been marketed within that Accounting Control Group.

Section 3.4.2. With respect to Feeder Pigs, Owner agrees to pay Producer a base amount of \$0.0820 times the number of marketed pigs, times the number of complete calendar days elapsed since that Group of Feeder Pigs were first placed with grower. This base amount shall include

allowance for dead on arrival or tankage pigs. This period shall include both the first date of delivery and the last day the Group was marketed (First in - last out or FILO) (Example, animals first placed on June 1<sup>st</sup> and last sold on October 31<sup>st</sup> are equal to 152 days). Provided, however, in the event any part of a subsequent or new Group is delivered to Producer prior to the last day of marketing of a prior Group, the beginning period for computation of the number of days for the new Group shall begin on the next day after the last date of marketing of the prior Group. The base payment shall be distributed as described in Exhibit "A" hereto attached and made part of.

Section 3.4.3. As an incentive for efficient management practices performed by Producer in growing Feeder Pigs, Owner further agrees to allocate the additional sum of \$2.00 per marketed pig in each Accounting Control Group, and Producer's share, if any, of that amount shall be determined according to the formula set out in Exhibit "A" hereto attached and made a part hereof, which currently includes feed conversion. The additional incentive amount, if any, payable to a Producer shall be paid by Owner within ten (10) business days after the completion of marketing of the last segment of the consecutive Group within that particular Accounting Control Group and the receipt by Owner of completed records and reports required of Producer by Owner.

Section 3.4.4. By written notice from Owner to Producer, the base payment amount specified in Section 3.4.2 and the amount allocated per pig per Accounting Control Group, as well as the methods of base pay distribution and incentive factors set out in Exhibit "A" as specified in Section 3.4.3, including feed conversion may be changed by Owner from time to time, as well as the introduction of additional factors, but no such change shall alter the rate in effect for any Group being grown out at the time of the change, but shall be effective only as to subsequent Groups.

If Producer receives notice as stated in this Section 3.4.4 that the base pay amount or incentive amount changes and such change results in a per head decrease in Producer's pay and such resulting per head decrease is unacceptable to Producer, within fifteen (15) days after receipt of notice, Producer shall notify Owner that Producer chooses not to accept the terms. Notwithstanding Producer's non-acceptance of the terms of the notification, Producer shall finish the current group growing plus one group under the former terms after which this contract shall terminate.

At Owner's discretion, the base and/or bonus rate may increase during this fifteen-group contract to acknowledge Producer cost increases.

Notice of any change in the base payment amount or the incentive payment formula or amount shall be deemed conclusively given by Owner and received by Producer, if the same shall be mailed by Owner to Producer by depositing the same in the United States mail, first class, postage prepaid, to the last known address of Producer, and shall not be required to be delivered to Producer more than one time after any such revision or modification, although Producer may have accepted and managed more than one Group of Feeder Pigs after such revision or modification. The terms of the applicable payment formula are incorporated herein by reference, and made a part thereof as if fully set out herein.

Section 4. PRODUCER AGREEMENT:

Section 4.1. Facilities, Equipment and Maintenance. Producer shall furnish the finishing floor, together with all equipment necessary for the care of maintenance of Feeder Pigs to raise them to a market size, including any equipment necessary for feeding, medication, waste disposal, automatic sprinklers, automatic curtain systems, ventilation equipment, bulk feed bins, loading chutes, and any other equipment and/or facilities that are deemed necessary from time to time by

Owner for the proper care and maintenance of the swine. The equipment must be designed according to Owner specifications. Such specifications can be changed from time to time according to Owner's discretion.

Section 4.2. Management Practices. Producer shall follow the management practices established from time to time by Owner in Owner's sole discretion and supervise and/or care for the swine and equipment in order to assure that proper animal husbandry practices are performed and that the Animal Welfare Policy is adhered to. Any violation of the Animal Welfare Policy will lead to disciplinary action by Owner, which may include contract termination.

Section 4.3. Swine Sickness. Producer shall notify Owner's serviceman assigned to Producer or Owner's veterinarian immediately of any swine sickness or other problem affecting Owner's swine, and carry out the recommendations for medication and treatment of any animal sickness. Producer shall provide all labor for the medical treatment of the animals with medication, either directly by vaccination or through the feed and/or water systems.

Section 4.4. Service Roads. Producer shall maintain all service and/or access roads in a reasonable condition that will enable Owner's service vehicles and trucks to operate upon said roadways and/or service entrances without causing damage to Owner's vehicles or causing them to be stuck or non-operable because of adverse road conditions. In the event any of Owner's vehicles should require the services of a wrecker as a result of the deteriorated condition of any road or service area, Producer agrees to pay any and all such wrecker bills.

Section 4.5. Reports. On a daily basis, Producer shall maintain a written mortality report tracking all swine death losses. Producer shall call Owner's designated representative to report the information contained in the mortality report. Similarly Producer shall maintain a written



report tracking lagoon freeboard levels. On a weekly basis, Producer shall call Owner's designated representative and report the information contained in the freeboard report.

Additionally, Producer will maintain and report any additional reports required by Owner that Owner, in its sole discretion, deems necessary from time to time. Producer shall dispose of all dead animals in compliance with any State, Federal and/or local laws or ordinances or practices that Owner may in its sole discretion deem necessary from time to time.

Section 4.6. Animal Waste. Producer shall dispose of all animal waste in compliance with all applicable State, Federal and local ordinances and/or regulations or practices that Owner may in its sole discretion deem necessary from time to time.

Section 4.7. Facilities Maintenance. Producer shall maintain the facilities, as well as the general area of the facilities in order to practice good animal husbandry practices, including but not limited to mowing the grass, maintaining acceptable rodent and fly control measures and practices as may be specified by Owner in its sole discretion from time to time.

Section 4.8. Facility Gates. Producer shall provide gates and locks upon the entrance or service roads to the swine facilities, as directed by Owner.

Section 4.9. Other Swine. Producer shall not own or have possession of, either as agent, Producer or otherwise, any swine not owned by Owner. Producer shall not permit any swine, not owned by Owner and designated for the swine facilities herein contracted for, to come within 1,000 feet of the swine finishing floor, unless permitted in writing by Owner. It is specifically understood and agreed that under no circumstances shall the requirement for written approval be waived.

Section 4.10. Owner Access. Producer shall permit any of Owner's authorized representatives to enter upon Producer's premises at any reasonable time for the purpose of inspection of Owner's swine and Producer's facilities.

Section 4.11. Loading and Unloading Swine. Producer shall provide one person capable of unloading of the Feeder Pigs at placement. Owner shall provide all labor for loading swine to market.

Section 4.12. Lending Institutions. Producer acknowledges that a lending institution may have a security interest in Owner's Feeder Pigs, and hereby acknowledges and agrees that at all times such security interest shall be superior to any and all rights that Producer may have or acquire by virtue of the status of Producer or grower, or any other rights. Producer further agrees that it will under no circumstances assert, attempt to assert, or claim a priority claim or security interest superior to that of such a secured creditor. Producer further agrees that it shall be required to permit any party having a security interest in Owner's swine to have access to Producer's premises and facilities at all reasonable times for the purpose of exercising any right, including the right of inspection and possession, as provided for in the creditor's security agreement.

Section 4.13. Indemnification. Producer does hereby agree to hold and save Owner harmless from all losses, claims, damages, or expenses, including reasonable attorney fees and court costs, resulting from any act of Producer, Producer's employees, representatives, invitees, guests, and agents, or from any omission of Producer, whether said act or omission was required by any State, Federal or local law, rule, regulation or ordinance or under the terms of this Swine Agreement.

Section 4.14. Right to Set-Off. Producer hereby agrees that Owner may set off or apply any of the proceeds due Producer by Owner under this Swine Agreement, to any indebtedness owed by Producer to Owner, as the result of any purchase by Producer from Owner of materials, supplies, equipment, advances, or any other monetary obligation incurred by Producer to Owner, and that

such set off shall be superior to any assignment of any contract proceeds to any third party by Producer.

Section 4.15. Failure to Perform Services. Producer agrees that in the event Producer shall, for whatever reason, during any time in which it has possession of any of Owner's swine, fail or be unable to perform reasonable animal husbandry practices, or otherwise breach any material part of this Agreement, Owner shall be entitled to, at Owner's sole discretion, either (i) remove its swine from Producer's facilities, after having first given Producer notice in writing at least twelve (12) hours in advance or (ii) leave the swine on Producer's facilities until the swine are ready for marketing. If Owner chooses option (i) during the period between the time notice is given and swine removal, Owner shall have the right to have a representative supervise the care and maintenance of its swine. If owner chooses option (ii) Owner shall carry out the exclusive care and management of Owner's swine located at Producer's premises as well as carry out proper waste management and dead animal disposal practices with its own employees or designated representatives. Producer agrees that this Section 4.15 is so necessary for Owner to protect the lives of the swine and that money damages would represent inadequate compensation. Therefore, Producer specifically grants Owner the right to have a judgement for specific performance granted under this Section 4.15. In the event Owner shall invoke the provisions of Subsection (ii), Owner shall be entitled to set off all reasonable costs incurred by Owner in completing the grow out of the existing "Group" of swine against the amount normally payable to Producer upon the marketing of the swine. Producer agrees that Owner's right of set off shall be superior to any assignment of contract rights, or other claims against any grower contract proceeds to any third party.

Section 4.16. This agreement constitutes the entire agreement of the parties, and all prior negotiations not included herein are deemed specifically waived.

Section 4.17. In the event any part of this agreement should be declared null and void, all remaining provisions shall continue in full force and effect.

Section 4.18. Governing Law. This agreement shall be construed under the provisions of the laws of the State of North Carolina, and in the event of a dispute, any legal action shall be brought in the appropriate division of the State Court of North Carolina.

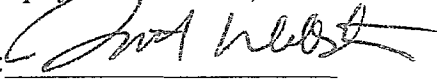
This contract supersedes and replaces all previous contracts with said grower for the swine finishing facilities indicated herein.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals, or if corporate, have caused its corporate seal to be affixed, the day and year first above written.

OWNER:

PRODUCER:

Murphy-Brown LLC, LLC

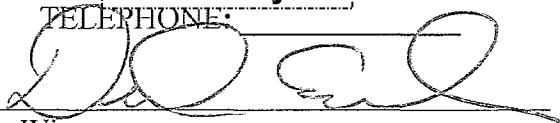
By: 

 (SEAL)  
Joseph Carter

TITLE: VICE-PRESIDENT

\_\_\_\_\_ (SEAL)

  
Witness

TIN: Privacy  
TELEPHONE: \_\_\_\_\_  
  
Witness

## Exhibit "A"

### Finishing Contract

#### Base Pay

Producers will be advanced a portion of their Base Pay seventy (70) days after pigs are placed into a new "Group." The advance will be calculated at the rate of \$5.00 per head of capacity per house. When the "Group" closes out, the advance will be subtracted from the Base Pay, which is calculated in accordance with the contract, Section 3.4, "Terms of Payment," and remainder of base pay will be paid with the Bonus Check.

**Example :** Producer has a 1,000 capacity house on his farm. The house begins placing on February 5<sup>th</sup>. Producer will be advanced \$5,000 of his Base Pay on April 15<sup>th</sup>, (70 days after start of Group Placement) and the remainder of the Base Pay will be paid at the same time as the Bonus for that "Group" by Owner within ten (10) business days after the completion of marketing of that particular "Accounting control Group" and receipt by Owner of completed records and reports required of Producer by Owner.

#### Bonus Pay

##### Feed Conversion

Owner (**Murphy-Brown LLC, LLC**) agrees to allocate an additional sum of \$2.00 per head marketed (includes BBQs, lite hogs and top hogs). The base FC will be the average feed conversion of all Murphy-Brown LLC (**EAST COAST OPERATIONS IN NORTH CAROLINA, SOUTH CAROLINA AND VIRGINIA**) contract closeouts during the previous four (4) week period . The average will be determined by dropping the oldest week and adding the latest week completed. An example of this system is: August 4 through August 10, August 11 through August 17, August 18 through August 24, August 25 through August 31. The next Monday, "drop" the week of August 4 through August 10 and add the week of September 1 through September 7. Continue on this system to maintain the required four (4)-week rolling average in order to average the feed conversion for said four (4) weeks.

The bonus will then be calculated as follows. Subtract each group's FC from the Average Base FC and multiply that times three (3). If the FC is better than the Average Base FC, add that amount to the bonus pay \$2.00 Pay/Hd/Sold. If the FC is less than the Average Base FC, subtract that amount from the bonus \$2.00 Pay/Hd/Sold.

#### Example: Feed Conversion Table

\*Based on all Murphy-Brown LLC (**EAST COAST OPERATIONS IN NORTH CAROLINA, SOUTH CAROLINA AND VIRGINIA**) contract closeouts with a four (4)-week rolling average.

Exhibit "A" continued

<u>Example Feed Conversion</u>	<u>Example Bonus Pay/Hd Sold</u>
2.60	2.60
2.70	2.30
<b>2.80 Avg. Base FC</b>	<b>2.00</b>
2.90	1.70
3.00	1.40

\$0.03 per 0.01 FC change from average

**Under-Placement Capacity Adjustment By Site**

If site capacity (based on lessor of building capacity or nutrient management plan) is below 2% under placement, then payment per day will be adjusted according to the following formula:

Example: Site capacity = 1,000 pigs but placing 950 pigs

$$1,000 \times 2\% = 20$$

$$1,000 - 20 = 980$$

$$(1,000/950) \times \$0.0820 = \$0.0864$$

## Exhibit "B"

# Murphy-Brown LLC

## Animal Welfare Policy

Murphy-Brown is committed to being a leader in responsible animal welfare practices, to humanely produce wholesome food products for our customers, and to analyze our operations and practices to ensure continual improvement.

*Murphy-Brown is committed to providing:*

- Shelter that is designed, maintained, and operated to provide a physical environment that meets the animals' needs.
- Access to adequate water and high quality feed to meet animal nutritional requirements.
- Humane treatment of its animals that enhances their well-being and complies with all applicable laws and regulations.
- Identification and appropriate treatment of animals in need of health care.
- Use of humane methods to euthanize sick or injured animals not responding to care and treatment.

Adherence to the principles of this policy is a responsibility and requirement of those that interact with animals that are wholly owned by Murphy-Brown. Willful neglect or abuse of animals will not be tolerated and will result in immediate termination. Offenders may also be subject to criminal prosecution under General Statutes.

Murphy-Brown's Animal Welfare Policy is provided to its associates and is available to the public.

NORTH CAROLINA

DUPLIN COUNTY

**MURPHY-BROWN, LLC**

**785 HWY 24-50**

**WARSAW, NORTH CAROLINA 28398**

FARM NUMBER 4690 House(s) 1,2,3,4

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Section 3.4.3. As an incentive for efficient management practices performed by Producer in growing Feeder Pigs, Owner further agrees to allocate the additional sum of \$2.00 per marketed pig in each Accounting Control Group, and Producer's share, if any, of that amount shall be determined according to the formula set out in Exhibit "A" hereto attached and made a part hereof, which currently includes feed conversion. The additional incentive amount, if any, payable to a Producer shall be paid by Owner within ten (10) business days after the completion of marketing of the last segment of the consecutive Group within that particular Accounting Control Group and the receipt by Owner of completed records and reports required of Producer by Owner.

Section 3.4.4. By written notice from Owner to Producer, the base payment amount specified in Section 3.4.2 and the amount allocated per pig per Accounting Control Group, as well as the methods of base pay distribution and incentive factors set out in Exhibit "A" as specified in Section 3.4.3, including feed conversion may be changed by Owner from time to time, as well as the introduction of additional factors, but no such change shall alter the rate in effect for any Group being grown out at the time of the change, but shall be effective only as to subsequent Groups.

If Producer receives notice as stated in this Section 3.4.4 that the base pay amount or incentive amount changes and such change results in a per head decrease in Producer's pay and such resulting per head decrease is unacceptable to Producer, within fifteen (15) days after receipt of notice, Producer shall notify Owner that Producer chooses not to accept the terms. Notwithstanding Producer's non-acceptance of the terms of the notification, Producer shall finish the current group growing plus one group under the former terms after which this contract shall terminate.

At Owner's discretion, the base and/or bonus rate may increase during this fifteen-group contract to acknowledge Producer cost increases.

Notice of any change in the base payment amount or the incentive payment formula or amount shall be deemed conclusively given by Owner and received by Producer, if the same shall be mailed by Owner to Producer by depositing the same in the United States mail, first class, postage prepaid, to the last known address of Producer, and shall not be required to be delivered to Producer more than one time after any such revision or modification, although Producer may have accepted and managed more than one Group of Feeder Pigs after such revision or modification. The terms of the applicable payment formula are incorporated herein by reference, and made a part thereof as if fully set out herein.

Section 4. PRODUCER AGREEMENT:

Section 4.1. Facilities, Equipment and Maintenance. Producer shall furnish the finishing floor, together with all equipment necessary for the care of maintenance of Feeder Pigs to raise them to a market size, including any equipment necessary for feeding, medication, waste disposal, automatic sprinklers, automatic curtain systems, ventilation equipment, bulk feed bins, loading chutes, and any other equipment and/or facilities that are deemed necessary from time to time by

Owner for the proper care and maintenance of the swine. The equipment must be designed according to Owner specifications. Such specifications can be changed from time to time according to Owner's discretion.

Section 4.2. Management Practices. Producer shall follow the management practices established from time to time by Owner in Owner's sole discretion and supervise and/or care for the swine and equipment in order to assure that proper animal husbandry practices are performed and that the Animal Welfare Policy is adhered to. Any violation of the Animal Welfare Policy will lead to disciplinary action by Owner, which may include contract termination.

Section 4.3. Swine Sickness. Producer shall notify Owner's serviceman assigned to Producer or Owner's veterinarian immediately of any swine sickness or other problem affecting Owner's swine, and carry out the recommendations for medication and treatment of any animal sickness. Producer shall provide all labor for the medical treatment of the animals with medication, either directly by vaccination or through the feed and/or water systems.

Section 4.4. Service Roads. Producer shall maintain all service and/or access roads in a reasonable condition that will enable Owner's service vehicles and trucks to operate upon said roadways and/or service entrances without causing damage to Owner's vehicles or causing them to be stuck or non-operable because of adverse road conditions. In the event any of Owner's vehicles should require the services of a wrecker as a result of the deteriorated condition of any road or service area, Producer agrees to pay any and all such wrecker bills.

Section 4.5. Reports. On a daily basis, Producer shall maintain a written mortality report tracking all swine death losses. Producer shall call Owner's designated representative to report the information contained in the mortality report. Similarly Producer shall maintain a written

report tracking lagoon freeboard levels. On a weekly basis, Producer shall call Owner's designated representative and report the information contained in the freeboard report.

Additionally, Producer will maintain and report any additional reports required by Owner that Owner, in its sole discretion, deems necessary from time to time. Producer shall dispose of all dead animals in compliance with any State, Federal and/or local laws or ordinances or practices that Owner may in its sole discretion deem necessary from time to time.

Section 4.6. Animal Waste. Producer shall dispose of all animal waste in compliance with all applicable State, Federal and local ordinances and/or regulations or practices that Owner may in its sole discretion deem necessary from time to time.

Section 4.7. Facilities Maintenance. Producer shall maintain the facilities, as well as the general area of the facilities in order to practice good animal husbandry practices, including but not limited to mowing the grass, maintaining acceptable rodent and fly control measures and practices as may be specified by Owner in its sole discretion from time to time.

Section 4.8. Facility Gates. Producer shall provide gates and locks upon the entrance or service roads to the swine facilities, as directed by Owner.

Section 4.9. Other Swine. Producer shall not own or have possession of, either as agent, Producer or otherwise, any swine not owned by Owner. Producer shall not permit any swine, not owned by Owner and designated for the swine facilities herein contracted for, to come within 1,000 feet of the swine finishing floor, unless permitted in writing by Owner. It is specifically understood and agreed that under no circumstances shall the requirement for written approval be waived.

Section 4.10. Owner Access. Producer shall permit any of Owner's authorized representatives to enter upon Producer's premises at any reasonable time for the purpose of inspection of Owner's swine and Producer's facilities.



Section 4.11. Loading and Unloading Swine. Producer shall provide one person capable of unloading of the Feeder Pigs at placement. Owner shall provide all labor for loading swine to market.

Section 4.12. Lending Institutions. Producer acknowledges that a lending institution may have a security interest in Owner's Feeder Pigs, and hereby acknowledges and agrees that at all times such security interest shall be superior to any and all rights that Producer may have or acquire by virtue of the status of Producer or grower, or any other rights. Producer further agrees that it will under no circumstances assert, attempt to assert, or claim a priority claim or security interest superior to that of such a secured creditor. Producer further agrees that it shall be required to permit any party having a security interest in Owner's swine to have access to Producer's premises and facilities at all reasonable times for the purpose of exercising any right, including the right of inspection and possession, as provided for in the creditor's security agreement.

Section 4.13. Indemnification. Producer does hereby agree to hold and save Owner harmless from all losses, claims, damages, or expenses, including reasonable attorney fees and court costs, resulting from any act of Producer, Producer's employees, representatives, invitees, guests, and agents, or from any omission of Producer, whether said act or omission was required by any State, Federal or local law, rule, regulation or ordinance or under the terms of this Swine Agreement.

Section 4.14. Right to Set-Off. Producer hereby agrees that Owner may set off or apply any of the proceeds due Producer by Owner under this Swine Agreement, to any indebtedness owed by Producer to Owner, as the result of any purchase by Producer from Owner of materials, supplies, equipment, advances, or any other monetary obligation incurred by Producer to Owner, and that

such set off shall be superior to any assignment of any contract proceeds to any third party by Producer.

Section 4.15. Failure to Perform Services. Producer agrees that in the event Producer shall, for whatever reason, during any time in which it has possession of any of Owner's swine, fail or be unable to perform reasonable animal husbandry practices, or otherwise breach any material part of this Agreement, Owner shall be entitled to, at Owner's sole discretion, either (i) remove its swine from Producer's facilities, after having first given Producer notice in writing at least twelve (12) hours in advance or (ii) leave the swine on Producer's facilities until the swine are ready for marketing. If Owner chooses option (i) during the period between the time notice is given and swine removal, Owner shall have the right to have a representative supervise the care and maintenance of its swine. If owner chooses option (ii) Owner shall carry out the exclusive care and management of Owner's swine located at Producer's premises as well as carry out proper waste management and dead animal disposal practices with its own employees or designated representatives. Producer agrees that this Section 4.15 is so necessary for Owner to protect the lives of the swine and that money damages would represent inadequate compensation. Therefore, Producer specifically grants Owner the right to have a judgement for specific performance granted under this Section 4.15. In the event Owner shall invoke the provisions of Subsection (ii), Owner shall be entitled to set off all reasonable costs incurred by Owner in completing the grow out of the existing "Group" of swine against the amount normally payable to Producer upon the marketing of the swine. Producer agrees that Owner's right of set off shall be superior to any assignment of contract rights, or other claims against any grower contract proceeds to any third party.

Section 4.16. This agreement constitutes the entire agreement of the parties, and all prior negotiations not included herein are deemed specifically waived.

Section 4.17. In the event any part of this agreement should be declared null and void, all remaining provisions shall continue in full force and effect.

Section 4.18. Governing Law. This agreement shall be construed under the provisions of the laws of the State of North Carolina, and in the event of a dispute, any legal action shall be brought in the appropriate division of the State Court of North Carolina.

This contract supersedes and replaces all previous contracts with said grower for the swine finishing facilities indicated herein.


IN WITNESS WHEREOF, the parties have hereunto affixed their hands and seals, or if corporate, have caused its corporate seal to be affixed, the day and year first above written.

OWNER:

PRODUCER:

**Murphy-Brown LLC, LLC**

By 

 (SEAL)  
Joseph Carter

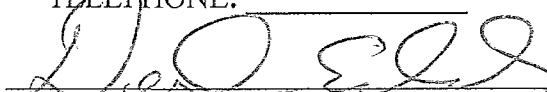
TITLE: **VICE-PRESIDENT**

\_\_\_\_\_ (SEAL)

TIN: Privacy

TELEPHONE: \_\_\_\_\_

  
Witness

  
Witness

## Exhibit "A"

### Finishing Contract

#### Base Pay

Producers will be advanced a portion of their Base Pay seventy (70) days after pigs are placed into a new "Group." The advance will be calculated at the rate of \$5.00 per head of capacity per house. When the "Group" closes out, the advance will be subtracted from the Base Pay, which is calculated in accordance with the contract, Section 3.4, "Terms of Payment," and remainder of base pay will be paid with the Bonus Check.

**Example :** Producer has a 1,000 capacity house on his farm. The house begins placing on February 5<sup>th</sup>. Producer will be advanced \$5,000 of his Base Pay on April 15<sup>th</sup>, (70 days after start of Group Placement) and the remainder of the Base Pay will be paid at the same time as the Bonus for that "Group" by Owner within ten (10) business days after the completion of marketing of that particular "Accounting control Group" and receipt by Owner of completed records and reports required of Producer by Owner.

#### Bonus Pay

##### Feed Conversion

Owner (**Murphy-Brown LLC, LLC**) agrees to allocate an additional sum of \$2.00 per head marketed (includes BBQs, lite hogs and top hogs). The base FC will be the average feed conversion of all **Murphy-Brown LLC (EAST COAST OPERATIONS IN NORTH CAROLINA, SOUTH CAROLINA AND VIRGINIA)** contract closeouts during the previous four (4) week period . The average will be determined by dropping the oldest week and adding the latest week completed. An example of this system is: August 4 through August 10, August 11 through August 17, August 18 through August 24, August 25 through August 31. The next Monday, "drop" the week of August 4 through August 10 and add the week of September 1 through September 7. Continue on this system to maintain the required four (4)-week rolling average in order to average the feed conversion for said four (4) weeks.

The bonus will then be calculated as follows. Subtract each group's FC from the Average Base FC and multiply that times three (3). If the FC is better than the Average Base FC, add that amount to the bonus pay \$2.00 Pay/Hd/Sold. If the FC is less than the Average Base FC, subtract that amount from the bonus \$2.00 Pay/Hd/Sold.

#### Example: Feed Conversion Table

\*Based on all **Murphy-Brown LLC (EAST COAST OPERATIONS IN NORTH CAROLINA, SOUTH CAROLINA AND VIRGINIA)** contract closeouts with a four (4)-week rolling average.

Exhibit "A" continued

<u>Example</u> <u>Feed Conversion</u>	<u>Example</u> <u>Bonus Pay/Hd Sold</u>
2.60	2.60
2.70	2.30
<b>2.80 Avg. Base FC</b>	<b>2.00</b>
2.90	1.70
3.00	1.40

\$0.03 per 0.01 FC change from average

**Under-Placement Capacity Adjustment By Site**

If site capacity (based on lessor of building capacity or nutrient management plan) is below 2% under placement, then payment per day will be adjusted according to the following formula:

Example: Site capacity = 1,000 pigs but placing 950 pigs

$$\begin{aligned} 1,000 \times 2\% &= 20 \\ 1,000 - 20 &= 980 \\ (1,000/950) \times \$0.0820 &= \$0.0864 \end{aligned}$$

## Exhibit "B"

# Murphy-Brown LLC

## Animal Welfare Policy

Murphy-Brown is committed to being a leader in responsible animal welfare practices, to humanely produce wholesome food products for our customers, and to analyze our operations and practices to ensure continual improvement.

*Murphy-Brown is committed to providing:*

- Shelter that is designed, maintained, and operated to provide a physical environment that meets the animals' needs.
- Access to adequate water and high quality feed to meet animal nutritional requirements.
- Humane treatment of its animals that enhances their well-being and complies with all applicable laws and regulations.
- Identification and appropriate treatment of animals in need of health care.
- Use of humane methods to euthanize sick or injured animals not responding to care and treatment.

Adherence to the principles of this policy is a responsibility and requirement of those that interact with animals that are wholly owned by Murphy-Brown. Willful neglect or abuse of animals will not be tolerated and will result in immediate termination. Offenders may also be subject to criminal prosecution under General Statutes.

Murphy-Brown's Animal Welfare Policy is provided to its associates and is available to the public.